

3 FAM 4530 MORE SERIOUS ADVERSE ACTIONS

3 FAM 4531 ACTIONS COVERED BY THIS SUBCHAPTER

(TL:PER-253; 4-17-95)

(State Only)

(Applies to Civil Service Employees)

This subchapter covers:

- Adverse Action Procedures For Suspension For More Than 14 Days;
- Removal
- Furloughs Without Pay For 30 Days or Less; and
- Reduction In Grade or Pay

3 FAM 4532 NOTICE OF PROPOSED ADVERSE ACTION

(TL:PER-253; 4-17-95)

(State Only)

(Applies to Civil Service Employees)

An employee against whom an action is taken involving a suspension for more than 14 days, removal, furloughs without pay for 30 days or less, and reductions in grade or pay, must be given at least 30 days advance written notice stating the specific reasons for the proposed action, a reasonable time to answer orally and/or in writing, and informed of the employee's rights to be represented by an attorney or other representative. The employee must be provided with a written decision.

3 FAM 4533 EMPLOYEE'S ANSWER

(TL:PER-253; 4-17-95)

(State Only)

(Applies to Civil Service Employees)

A reasonable time, but not less than seven days unless an emergency situation is involved (see 3 FAM 4534), shall be allowed an employee for answering charges in a notice of proposed adverse action involving a suspension for more than 14 days, removal, furloughs without pay for 30 days or less, and reduction in grade or pay. See 3 FAM 4522.

3 FAM 4534 EXCEPTIONS TO THE NOTICE PERIOD AND OPPORTUNITY TO PREPARE ANSWER

(TL:PER-253; 4-17-95)

(State Only)

(Applies to Civil Service Employees)

a. The 30-day advance written notice period for adverse actions under section 3 FAM 4531 may be shortened when the crime provision is invoked (5 U.S.C. 7413); that is, when reasonable cause exists to believe the employee is guilty of a crime for which a sentence of imprisonment can be imposed, or when an emergency suspension is required. Under such conditions, however, the employee must be given such lesser number of days of advance notice and opportunity to answer which is reasonable and justifiable under the circumstances.

b. No advance notice is required for furloughs for 30 days or less without pay when the furlough is due to unforeseen circumstances such as equipment failure, lack of funds or work, and acts of God.

3 FAM 4535 DUTY STATUS DURING NOTICE PERIOD

(TL:PER-253; 4-17-95)

(State Only)

(Applies to Civil Service Employees)

Normally, an employee against whom an adverse action under section 3 FAM 4534 is proposed, including indefinite suspension, shall be retained in an active duty status during the notice period. When circumstances are such that the employee's continued presence in the workplace during the notice period may pose a threat to the employee or others, result in loss of, or damage to, Government property, or otherwise jeopardize legitimate Government interests, the Department may elect one or a combination of the following alternatives:

(1) Assign the employee to duties where he or she is no longer a threat to safety, the agency mission, or to Government property;

(2) Allow the employee to take leave, or carry him or her on an appropriate leave status (annual, sick, leave without pay, or absence without leave) if the employee has absented himself or herself from the work-site without requesting leave;

(3) Curtail the notice period when the agency can invoke the provisions of 5 CFR 752.404(d)(I), (the "crime provision"). This provision may be invoked even in the absence of judicial action if the agency has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed; or

(4) Place the employee in a paid, non-duty status for such time as is necessary to effect the action.

3 FAM 4536 NOTICE OF ADVERSE DECISION

(TL:PER-253; 4-17-95)

(State Only)

(Applies to Civil Service Employees)

An employee shall be notified in writing at the earliest practicable date of any decision to take adverse action; a Merit Systems Protection Board (MSPB) Appeals Form shall be attached and the written notification shall inform the employee of:

(1) Which of the reasons in the notice of proposed adverse action have been found sustained and which have been found not sustained;

(2) The time limit for filing an appeal;

(3) Where to file an appeal and to whom it should be addressed; and

(4) Where to obtain information on how to pursue the appeal.

3 FAM 4537 THROUGH 4539 UNASSIGNED